

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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Application No.:	10/087,224	§	Examiner:	Lin, Kelvin Y
Filed:	March 1, 2002	§	Group/Art Unit:	2142
Inventors:		§	Atty. Dkt. No:	5681-12100
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		§		
Title:	System and Method for	§		
	State Data Back-up in a	§		
	Distributed Data System	§		
		§		
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**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

**Mail Stop Appeal Brief - Patents**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir/Madam:

This paper is submitted in response to the Notification of Non-Compliant Appeal Brief mailed November 21, 2006.

## **Remarks**

In the Notification of Non-Compliant Appeal Brief, the Examiner indicated that the most related paragraph to the means plus function of the fourth element of claim 11 is paragraph [0071]. The Examiner goes on to state that this paragraph “fails to disclose the function of primary state using the set of the attributes of the session data, it merely discloses the back-up node 506 may synchronize its instance of the primary state data 508 with the primary state 112 using primary state delta 504”. Appellants assert that this is not the only relevant paragraph as indicated in the Summary (see below). For example, paragraph [0064] (indicated in the Summary) discusses various embodiments for determining modified attributes. These differences may be used to generate a primary state delta 504 (see paragraph [0068]). Paragraph [0071] relates to how this primary state delta may be used. In contrast to the Examiner’s assertion, Appellants assert that these paragraphs do describe embodiments of the function of the element of claim 11 in question. Similar remarks apply to the cited paragraphs regarding the fifth element of claim 11.

The Summary section has been revised to more clearly identify the means plus function elements of claim 11 and their corresponding structures.

Please replace the Summary of the Claimed Subject Matter section of the Appeal Brief with the following new section.

## V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The present application relates to providing quality of service in a networked environment and more particularly to state backup of session information in a distributed data system.

Independent claim 1 recites a system which includes a first node of a distributed store comprising a primary state of session data configured for access by a plurality of application servers, wherein the session data comprises a plurality of attributes. *See, e.g., at least paragraphs [0002]-[0009], [0027]-[0029], [0044], [0052]-[0059], [0066], [0067], [0076-0080]; Figures 1, 2, 5, 8, and 11.* The system also includes another node comprising a back-up instance of the primary state. *See, e.g., paragraphs [0008], [0066]-[0069], [0071]-[0074]; Figures 11-14.* The system is configured to compare the primary state to a benchmark of the primary state to generate a subset of the attributes of the session data that have been modified in the primary state. *See, e.g., paragraphs [0055]-[0057], [0061], [0064], [0068]-[0071], [0073], [0074]-[0076]; Figures 6, 7, 11-14.* The system is also configured to synchronize the back-up instance of the primary state with the primary state using the subset of the attributes of the session data. *See, e.g., at least paragraphs [0067], [0071]-[0078]; Figures 6, 7, 11-14.*

Independent claim 7 recites a system which includes a first node of a distributed store comprising a primary state of session data configured for access by a plurality of application servers, wherein the session data comprises a plurality of attributes. *See, e.g., at least paragraphs [0002]-[0009], [0027]-[0029], [0044], [0052]-[0059], [0066], [0067], [0076-0080]; Figures 1, 2, 5, 8, and 11.* The system also includes another node comprising a back-up instance of the primary state. *See, e.g., paragraphs [0008], [0066]-[0069], [0071]-[0074]; Figures 11-14.* The system is configured to compare the primary state to a benchmark of the primary state to generate a set of attributes that are mutable attributes for use in synchronizing the back-up instance of the primary state with the primary state. *See, e.g., paragraphs [0055]-[0057], [0061], [0064], [0068]-[0071], [0073], [0074]-[0076]; Figures 6, 7, 11-14.* The system is also configured to

synchronize the back-up instance of the primary state with the primary state using the according to the generated set of the mutable attributes of the session data. *See, e.g., at least paragraphs [0067], [0071]-[0078]; Figures 6, 7, 11-14.*

Independent claim 11 recites a system which includes a first node of a distributed store comprising a primary state of session data configured for access by a plurality of application servers, wherein the session data comprises a plurality of attributes. *See, e.g., at least paragraphs [0002]-[0009], [0027]-[0029], [0044], [0052]-[0059], [0066], [0067], [0076-0080]; Figures 1, 2, 5, 8, and 11.* The system also includes another node comprising a back-up instance of the primary state. *See, e.g., paragraphs [0008], [0066]-[0069], [0071]-[0074]; Figures 11-14.* The system includes means for determining a set of the attributes of the session data that differ between the primary state and the other instance of the primary state. *See, e.g., paragraphs [0002]-[0009], [0027], [0055]-[0057], [0061], [0064], [0068]-[0071], [0073], [0074]-[0080]; Figures 1, 2, 5-8, 11-14.* Structure corresponding to the means for determining includes a processor and memory storing program instructions executable on the processor to implement the function of determining a set of the attributes of the session data that differ between the primary state and the other instance of the primary state. For example, hardware for computer systems corresponding to the application server, the differencing mechanism, and/or the distributed store may correspond to the function of this element of claim 11. *See, e.g., paragraphs [0061], [0062], [0079], and [0080]; application server 104 A, application server 104B, distributed store 110, differencing mechanism 502 of Figures 1, 2, 5, 8A, 8B, 11.* The system further includes means for synchronizing the other instance of the primary state with the primary state using the set of the attributes of the session data that differ between the primary state and the other instance of the primary state. *See, e.g., at least paragraphs [0002]-[0009], [0027], [0062], [0067], [0071]-[0080]; Figures 1, 2, 5-8, 11-14.* Structure corresponding to the means for synchronizing includes a processor and memory storing program instructions executable on the processor to implement the function of synchronizing the other instance of the primary state with the primary state using the set of the attributes of the session data that differ between the primary state and the other instance of the primary state. For example, hardware for computer systems

corresponding to the application server, the differencing mechanism, the distributed store, and/or the back-up node 506 may correspond to the function of this element of claim 11. *See, e.g., paragraphs [0061], [0062], [0066], [0079], and [0080]; application server 104 A, application server 104B, distributed store 110, differencing mechanism 502, back-up node 506 of Figures 1, 2, 5, 8A, 8B, 11.*

Independent claim 15 recites a method which includes providing access to a primary state of session data comprised by a distributed store node to a plurality of application servers, wherein the session data comprises a plurality of attributes. *See, e.g., at least paragraphs [0002]-[0009], [0027]-[0029], [0044], [0052]-[0059], [0066], [0067]; Figures 1-5, 8, and 11.* The method also includes comparing the primary state to a benchmark of the primary state to generate a subset of the attributes of the session data that have been modified in the primary state. *See, e.g., paragraphs [0055]-[0057], [0061], [0064], [0068]-[0071], [0073], [0074]-[0076]; Figures 6, 7, 11-14.* Additionally, the method includes synchronizing the another instance of the primary state comprised by another node with the primary state using the subset of the attributes of the session data. *See, e.g., at least paragraphs [0067], [0071]-[0078]; Figures 6, 7, 11-14.*

Independent claim 21 recites a tangible computer accessible medium which includes software instructions executable to implement providing access to a primary state of session data comprised by a distributed store node to a plurality of application servers, wherein the session data comprises a plurality of attributes. *See, e.g., at least paragraphs [0002]-[0009], [0027]-[0029], [0044], [0052]-[0059], [0066], [0067], [0076]-[0080]; Figures 1, 2, 5, 8, and 11.* The instructions are also executable to implement comparing the primary state to a benchmark of the primary state to generate a subset of the attributes of the session data that have been modified in the primary state. *See, e.g., paragraphs [0002]-[0009], [0027], [0055]-[0057], [0061], [0064], [0068]-[0071], [0073], [0074]-[0080]; Figures 1, 2, 5-8, 11-14.* Additionally, the instructions are also executable to implement synchronizing the another instance of the primary state comprised by another node with the primary state using the subset of the attributes of the

session data. *See, e.g., at least paragraphs [0002]-[0009], [0027], [0067], [0071]-[0080]; Figures 1, 2, 5-8, 11-14.*

The summary above describes various examples and embodiments of the claimed subject matter; however, the claims are not necessarily limited to any of these examples and embodiments. The claims should be interpreted based on the wording of the respective claims.

## **Conclusion**

Applicants submit the above Summary of the Claimed Subject Matter section for the Appeal Brief is in complete compliance with 37 CFR 41.37. Consideration of the Appeal Brief by the Board of Patent Appeals and Interferences is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is required, Applicants hereby petition for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-12100/RCK.

Also enclosed herewith are the following items:

☐ Return Receipt Postcard

Respectfully submitted,

/Robert C. Kowert/

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